

The Manufacturer's Purchase Credit (MPC) may be used to satisfy Use Tax or Service Use Tax liability incurred on the purchase of qualifying "production related" tangible personal property. See 86 Ill. Adm. Code 130.331(b). (This is a PLR).

May 6, 1999

Dear Mr. Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see enclosed), is in response to your letter of March 19, 1999. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

We are writing to request a Private Letter Ruling according to Illinois Administrative Code, Ch. I, Sec. 1200.110(b). Enclosed you will find a copy of your General Information Letter dated 02/02/99 for reference. It contains relevant facts and a response to our original letter, which may be of assistance. We submit the following information as prescribed in the code:

- 1.) COMPANY, a partnership, manufactures and sells ready mix concrete in CITY, Illinois and the surrounding area. The partners are PERSON1 and PERSON2. The company has recently invested in a new plant and equipment earning the Manufacturers Purchase Credit. There appears to be only one reasonable way to use the credit in our case. That is, the fuel and oil consumed by the ready mix trucks. We are requesting a ruling regarding such use, in light of the relevant rules of Ch. I, Sec. 130.331.
- 2.) We don't know of any contracts, licenses, agreements, instruments, or other documents relevant to this request.
- 3.) Form ST-16 was filed for 1997, and one will be filed for 1998.
- 4.) To the best of our knowledge, the department has not ruled on this issue, and we have not previously submitted a request for Private Letter Ruling.
- 5.) Illinois Administrative Code Ch. I, Sec. 130.331 includes supplies and consumables in it's description of tangible personal property used in a production related process and eligible for use of the credit.
- 6.) The code also specifically excludes the use of trucks, etc., from being 'production related'.
- 7.) We are not including any specific trade secret information that we request be deleted from public discrimination of the ruling.

We have enclosed a copy of 86 Ill. Adm. Code 130.331, the Department's regulation on the Manufacturer's Purchase Credit. The Manufacturer's Purchase Credit (MPC) may be used to satisfy Use Tax or Service Use Tax liability incurred on the purchase of qualifying "production related" tangible personal property. See 86 Ill. Adm. Code 130.331(b). The credit may only be applied to the 6.25% State rate of tax incurred.

The term "production related tangible personal property" means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act (35 ILCS 120/2-45) takes place, and all tangible personal property used or consumed by a manufacturer in research and development regardless of use within or without a manufacturing facility. See 35 ILCS 105/3-85 and 86 Ill. Adm. Code 130.331(b)(3). The Department's administrative rules specifically state that fuels used by a manufacturer in a manufacturing facility will qualify as production related tangible personal property. See the enclosed copy of 86 Ill. Adm. Code 103.331(b)(4). The mixing of cement by ready-mix trucks is considered to be manufacturing of cement. Van's Material Company, Inc. v. Department of Revenue, 131 Ill.2d 196, 545 N.E.2d 695, 137 Ill.Dec. 42 (1989).

To the extent that the fuel is used in the ready-mix trucks for the mixing of the cement, it would qualify. Note that use of the fuel for purposes other than the manufacturing of the cement, such as transportation, would not qualify. When you mix cement while transporting the cement to or from a job site, you will need to determine the amount of fuel actually used in the manufacturing process (i.e., the mixing of cement), which will qualify. Then you will also need to determine the amount of fuel used in non-qualifying ways, such as transportation.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msh
Enc.